

Recent Campaign Changes to the Political Reform Act

Below are summaries of the legislative and regulatory changes made to the campaign provisions of the Political Reform Act (Act) in 2014. The effective dates for the changes are included in each of the summaries. To view the full text of the bills, visit: <http://leginfo.ca.gov/bilinfo.html>. To view the full text of the FPPC regulations, visit: <http://www.fppc.ca.gov/index.php?id=52>

Legislative Changes

Audits. The one-year deadline for the Franchise Tax Board (FTB) to complete audit reports for audits conducted on a random basis is extended to two years. In addition, the Commission and the FTB (at the direction of the Commission) may audit any record required to be maintained under the Act in order to ensure compliance with the Act prior to an election, even if the record or report is one that has not yet been filed. The Commission is also authorized to seek injunctive relief in a superior court to compel disclosure consistent with the Act and the court would be required to grant expedited review of an action filed pursuant to this provision. (AB 800 (Gordon) – Chapter 9, Statutes of 2014, effective April 3, 2014.)

Lobbyist Home Fundraisers. Under the Act, if someone holds a fundraiser in his or her home or office, the costs incurred by the occupant are not considered to be a contribution so long as the total cost of the event is \$500 or less. Lobbyists and lobbying firms may no longer take advantage of this fundraiser exception. The definition of “contribution” was amended to include a payment made by a lobbyist or a cohabitant of a lobbyist for costs related to a fundraising event held at the home of the lobbyist; therefore, prohibiting a lobbyist from holding a fundraiser in his or her home for a candidate seeking election to a governmental agency that the lobbyist is registered to lobby. The same prohibition applies to lobbying firms holding fundraisers at their offices. (SB 1441 (Lara) – Chapter 930, Statutes of 2014 and AB 1673 (Garcia) – Chapter 882, Statutes of 2014, effective January 1, 2015.)

Multipurpose Organizations. Nonprofits and other multipurpose organizations that are actively spending in California state and local elections must report those expenditures and the sources of the funds used to make the expenditures. The “first-bite-of-the apple” rule, which nonprofits and other multipurpose organizations were previously subject to, was eliminated. (See the “Regulatory Changes” section below.) Under the new rules, a nonprofit or other multipurpose organization must register as a recipient committee and disclose its donors if it: 1) receives donations of \$1,000 or more specifically for political purposes; 2) makes contributions or expenditures of more than \$50,000 in a period of 12 months; or, 3) makes contributions or expenditures of more than \$100,000 in a consecutive four-year period. For additional information about the new rules, refer to the [Multipurpose Organizations Reporting Political Spending](#) fact sheet. (SB 27 (Correa) – Chapter 16, Statutes of 2014, effective July 1, 2014.)

Notification to Contributors of Filing Obligations. Currently, a candidate or committee that receives contributions of \$5,000 or more must notify the contributor *within two weeks* that the contributor may be required to file campaign reports as a major donor. Pursuant to amended Government Code Section 84105, a candidate or committee that receives a contribution of \$10,000 or more in the 90 days prior to an election must provide the notification to the contributor *within one week*. The notifications sent by the candidate or committee must also include a reference to the filing requirements for nonprofits and other multipurpose organizations under Government Code Section 84222. The updated sample notification may be viewed [here](#). (SB 27 (Correa) – Chapter 16, Statutes of 2014, effective July 1, 2014.)

Paid Spokespersons. Currently, a committee that makes an expenditure of \$5,000 or more to an individual for his or her appearance in an advertisement to support or oppose the qualification, passage, or defeat of a ballot measure must file a report (Form 511) within ten days and must also include a statement in the advertisement that notifies viewers that the individual was paid to appear in the advertisement. Pursuant to amended Government Code Section 84511, a committee that makes an expenditure of any amount to an individual for his or her appearance in an advertisement that supports or opposes the qualification, passage, or defeat of a ballot measure and that states or suggests that the individual is a member of an occupation that requires licensure, certification, or other specialized, documented training as a prerequisite to engage in that occupation must also file the Form 511 within ten days. In addition, the committee must include a statement in the advertisement that notifies viewers that the individual was paid to appear in the advertisement and may not necessarily be a member of the occupation portrayed in the advertisement. However, if the individual in the advertisement is actually a member of the occupation portrayed, the committee may omit this disclaimer and shall maintain documentation of the individual's license or certification for the occupation. (AB 510 (Ammiano) – Chapter 868, Statutes of 2014, effective January 1, 2015.)

Restitution Fines. With limited exceptions, campaign funds may not be used to pay or reimburse fines, penalties, judgments, or settlements. Amendments to Government Code Section 89513 prohibit the use of campaign funds to be used to pay a restitution fine imposed under Penal Code Section 86, which subjects any member of the Legislature or any member of the legislative body of a city, county, city and county, school district, or other special district who asks for or receives a bribe in exchange for influence over his or her official action to imprisonment in a state prison and imposes prescribed restitution fines based on whether a bribe has actually been received. Penal Code Section 86 was amended to increase the restitution fines to twice the original amount. (AB 1666 (Garcia) – Chapter 881, Statutes of 2014, effective January 1, 2015.)

Subcontractor Payments. A subagent or subcontractor who provides goods or services to or for the benefit of a candidate or committee must make known to the agent or independent contractor all of the information required to be reported on a campaign statement. Generally, the agent or independent contractor must then make known to the candidate or committee all of the information required to be reported no later than three working days prior to the time the campaign statement is due. However, if an expenditure is made for a contribution or independent expenditure in the 90 days before an election, the expenditure must be reported to the candidate or committee within 24 hours. (AB 800 (Gordon) – Chapter 9, Statutes of 2014, effective April 3, 2014.)

Surplus Funds. Surplus funds are subject to restrictions as outlined in the Act. “Surplus campaign funds” were previously defined as campaign funds that were under the control of a former candidate or former elected officer as of the date of leaving elective office or the end of the postelection reporting period following the defeat of the candidate for elective office, whichever occurred last. The new rules increase the time at which campaign funds become surplus campaign funds to 90 days following either the date of leaving elective office or the end of the postelection reporting period following the defeat of a candidate, whichever occurs last. For example, leftover funds from the November 4, 2014 election become surplus on March 31, 2015, 90 days after the December 31, 2014 post-election reporting period. (AB 800 (Gordon) – Chapter 9, Statutes of 2014, effective April 3, 2014.)

Top Ten Contributor Lists. A committee primarily formed to support or oppose a state candidate or a state ballot measure that raises \$1,000,000 or more must submit to the Commission a list of the committee's top ten contributors of \$10,000 or more and the Commission must post the lists on its website. If the \$1,000,000 threshold is met during the 16 days prior to the election, the initial list must be submitted within 24 hours (or the next business day). If the \$1,000,000 threshold is met at any time

other than during the 16-day period before the election, the initial list must be submitted within three business days. The committees must provide an updated list each time specified changes are made. (See “Regulatory Changes” below.) The Commission must also post on its website an aggregate list of the top ten contributors supporting and opposing each state ballot measure. (SB 27 (Correa) – Chapter 16, Statutes of 2014, effective July 1, 2014.)

Use of Campaign Funds to Pay Fines. The expenditure of campaign funds of any amount to pay a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in a personal benefit to the candidate or officer is prohibited if it is determined that the expenditure was not *reasonably* related to a political, legislative, or governmental purpose. The same prohibition applies with respect to a fine, penalty, judgment, or settlement relating to an expenditure of campaign funds that resulted in a substantial personal benefit (more than \$200) to the candidate or officer if it is determined that the expenditure was not *directly* related to a political, legislative, or governmental purpose. (AB 1692 (Garcia) – Chapter 884, Statutes of 2014, effective January 1, 2015.)

Use of Campaign Funds to Pay Spouse for Services. The Act currently prohibits a spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation for services rendered in connection with fundraising from campaign funds held by a controlled committee of the officer or candidate. The amended provision instead prohibits a spouse or domestic partner of an elected officer or a candidate for elective office from receiving compensation in exchange for *any services rendered* from campaign funds held by a controlled committee of the officer or candidate. (AB 2320 (Fong) – Chapter 902, Statutes of 2014, effective January 1, 2015.)

Regulatory Changes

Contributions to Multipurpose Organizations. Amendments were adopted to delete the “first-bite-of-the-apple” rule, which previously required disclosure of donors by a multipurpose organization for a political expenditure if the organization had made a previous contribution or expenditure of \$1,000 or more. The rule created a presumption that donors knew their contributions to the organization might be used for political purposes given the organization’s history of political expenditures. Amended Regulation 18215 directs readers to the new multipurpose organization disclosure rules in Government Code Section 84222 and Regulation 18422. (Regulation 18215, amendments effective August 29, 2014.)

Donor Disclosure for Multipurpose Organizations. Prior to the enactment of SB 27, Regulation 18412 was adopted to provide rules for nonprofit organizations disclosing the sources of funds used for political expenditures. The regulation specified that nonprofit organizations were required to identify those donors who knew their funds would be used for political purposes and to identify other donors using the “last in, first out” (LIFO) accounting method. The donor disclosure rules are now included in Government Code Section 84222 and Regulation 18422 (see below); therefore, Regulation 18412 was repealed. (Regulation 18412, repeal effective August 29, 2014.)

Multipurpose Organizations. A regulation was adopted to provide the following rules for multipurpose organizations: 1) committee name requirements; 2) special requirements for committees that terminate automatically (calendar year filers); 3) requirements for identifying donors as contributors using the “last in, first out” (LIFO) accounting method; 4) requirements for notifying contributors (i.e., major donors) that they may have filing obligations; 5) requirements for a multipurpose organization that identifies another multipurpose organization as a contributor (multi-layer reporting). (Regulation 18422, effective August 29, 2014.)

Notification to Contributors of Filing Obligations. Amendments were adopted to include the new requirement for a candidate or committee that receives a contribution(s) of \$10,000 or more in the 90 days prior to an election to provide notification to the contributor *within one week* that the contributor may be required to file campaign reports. The sample language for the notification was amended to include information about the filing requirements for nonprofits and other multipurpose organizations under Government Code Section 84222. The updated sample notification may be viewed [here](#). (Regulation 18427.1, amendments effective August 29, 2014.)

Top Ten Contributor Lists. A regulation was adopted to require a committee to submit an updated top ten contributor list to the Commission when any of the following occurs: 1) a new person qualifies as a top ten contributor; 2) a person who is an existing top ten contributor makes additional contributions; 3) the relative ranking order of the top ten contributors changes; or, 4) the reporting committee changes its name to add or delete a ballot measure or candidate. The updated lists must be submitted within 24 hours (or the next business day) of the change if there are changes within the 16-day period before the election or within three business days of the change if there are changes at any time other than during the 16-day period before the election. The regulation also provides that with respect to the aggregate list of top contributors supporting and opposing each state ballot measure, the Commission will compile the list using the top contributor lists provided by the committees. The Commission will post on its website the methodology it uses in compiling the aggregate ballot measure top contributor lists and will post and update the lists as timely as practicable. (Regulation 18422.5, effective August 29, 2014.)